

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

DEANNE STEVENSON, an individual, AMBER SECRIST-BELL, and individual, and VALYRIE MACOSKY, an individual,

NO. CV-05-0058-EFS

Plaintiffs,

v.

BIG LOTS STORE, INC., a  
foreign corporation,

ORDER GRANTING STIPULATED MOTION  
FOR PROTECTIVE ORDER REGARDING  
CONFIDENTIAL DOCUMENTS

Defendant.

Finding good cause to enter the Stipulated Protective Order, because the parties are conducting pretrial discovery pursuant to the civil rules, and such discovery involves the disclosure of personal, confidential and proprietary information regarding defendant and plaintiffs, **IT IS HEREBY ORDERED:**

1. The Stipulated Motion for Protective Order Regarding Confidential Documents, (Ct. Rec. 8), is GRANTED.

2. Any party to this Stipulated Protective Order may designate as "Confidential" the following information or documents:

(a) any personal, medical or financial information or documents that pertain to any current or former employee or applicant of

1 defendant, including but not limited to personnel files and  
2 medical files;

3 (b) any information or documents regarding defendant's personnel  
4 decisions concerning current or former employees or applicants  
5 of defendant;

6 (c) any information or documents that contain or pertain to trade  
7 secrets, non-public business information, financial results or  
8 data, financial or business plans and strategies, projections  
9 or analyses, studies or analyses by internal or outside  
10 experts, or otherwise confidential or proprietary information  
11 and documentation pertaining to defendant's customers,  
12 clients, or accounts;

13 (d) any information or documents subject to a legally protected  
14 privacy right; and

15 (e) any documents that the parties agree will be marked  
16 confidential.

17 2. No designation of confidentiality shall be made unless counsel  
18 for the designating party believes in good faith that it is significant  
19 to the interest of his or her client that the designated matter be kept  
20 confidential and that the client would consider this matter, in the  
21 absence of litigation, to be confidential.

22 3. Any material designated as "Confidential" shall be used solely  
23 for the purposes of litigating this lawsuit and not for any other  
24 purpose, lawsuit, action or proceeding. However, nothing contained  
25 herein shall prohibit defendants from using confidential documents that  
26 defendant produced in this lawsuit in the operation of its business.

1       4. This Order shall apply to any and all documents designated as  
2 "CONFIDENTIAL" in accordance with the terms hereof. The party producing  
3 documents that it believes are confidential shall mark such documents as  
4 "CONFIDENTIAL" in the lower right hand corner, if feasible. If the  
5 requesting party does not agree that a document is confidential, upon  
6 notice of the disagreement, the producing party must file a motion  
7 within twenty (20) days with the Court to make a determination of the  
8 document's confidentiality, unless further extended by agreement of the  
9 parties. The document(s) will be treated as confidential pending a  
10 ruling from the Court.

11       5. Where only a portion of a confidential document needs to be  
12 restricted, counsel will cooperate in excising the confidential part of  
13 the documents and releasing the remainder of the document from the  
14 restrictions herein.

15       6. Documents marked "CONFIDENTIAL" by the producing party, and  
16 the information contained therein, shall be held securely by and at the  
17 offices of counsel of record for the other party or parties, and shall  
18 not be disclosed by them or shown by them to any other persons, subject  
19 to the following exceptions:

20       (a) The parties' counsel and employees of the parties' counsel  
21 (including associate attorneys, paralegals, litigation  
22 assistants, and secretarial, stenographic and clerical  
23 personnel assisting such counsel) may have access to  
24 information or documents marked as Confidential for the  
25 purposes of this litigation, consistent with this Stipulated  
26 Protective Order.

1 (b) Persons who prepared or who assisted in the preparation of any  
2 such document may be shown that document.

3 (c) Persons who are identified as being the addressee or copy  
4 recipient of any such document may be shown that document;

5 (d) Persons who are retained or selected by counsel for the  
6 non-producing party to assist in this litigation as experts or  
7 consultants may be shown any such document if, before being  
8 shown such document, they are given a copy of this stipulation  
9 and order and execute a consent to be bound by its terms in  
10 the form attached hereto as Exhibit A.

11 (e) The Defendant's employees may be shown such documents if,  
12 before being shown the documents, they are given a copy of  
13 this stipulation and order and execute a consent to be bound  
14 by its terms in the form attached hereto as Exhibit A.  
15 Plaintiffs are not responsible for the execution by  
16 Defendant's employees;

17 (f) The court may have access to such documents, provided that any  
18 such documents filed with the clerk of the court shall be  
19 sealed subject to release only by order of the court or  
20 agreement of counsel; and

21 (g) Persons who are witnesses or potential witnesses to this  
22 action may be shown the documents if, before being shown such  
23 documents, they are given a copy of this stipulation and order  
24 and execute a consent to be bound by its terms in the form  
25 attached hereto as Exhibit A; however, Plaintiffs are not  
26 responsible for the execution of any such consent for

Defendant's witnesses or potential witnesses.

All consents to be bound by this stipulation and order, executed pursuant to subparagraphs (c), (d) and (f) of this paragraph 2, shall be retained by counsel for the party that executed or procured the consent, and be made available for review by opposing counsel upon request.

7. Nothing contained herein shall be construed to prejudice any party's right to use any document in the taking of depositions; provided, however, that whenever a document designated as "CONFIDENTIAL" hereunder is identified or referred to in a deposition, attendance at and disclosure of any part of that deposition relating to the confidential information shall be restricted to potential witnesses, parties, to counsel, to the court and to such persons who may have been allowed access to such information in paragraph 6 hereof.

8. As used herein, the term "CONFIDENTIAL" means:

- (a) All documents designated "CONFIDENTIAL" as provided herein;
- (b) All copies and extracts prepared from such documents;
- (c) Portions of deposition exhibits thereto which disclose the contents of any such documents, copies, or extracts; and
- (d) Portions of briefs, memoranda or other writings filed with the court and exhibits thereto which disclose the contents of any such documents, copies, or extracts.

9. At the conclusion of this action, each document designated as "CONFIDENTIAL" hereunder (and copies thereof) shall, upon request of the party who produced such document, be returned to that party.

10. This stipulation and order is without prejudice to the right of any party to apply to the court for an order permitting the

1 disclosure of any of the documents or information produced or to be  
2 produced, or to apply for an order modifying or limiting this protective  
3 order in any respect.

4           11. This Order will apply to the handling of confidential  
5 documents prior to trial. After the pretrial conference, the parties  
6 shall meet and confer to (a) reach an agreement as to the  
7 confidentiality of information to be used at trial, and (b) designate  
8 documents as trial exhibits. If necessary, the parties or the Court  
9 will also develop a method for maintaining the confidentiality of such  
10 information and documents at trial. At the producing party's request,  
11 any document previously designated Confidential will be used at trial  
12 only in a clean or redacted copy without any such designation. This  
13 Order will not prevent either party from using any document produced in  
14 discovery as an exhibit at trial, nor prevent either party from showing  
15 a document to a witness during trial.

16       **IT IS SO ORDERED.** The District Court Executive is directed to  
17 enter this Order and forward a copy to counsel.

**DATED** this 5th day of May, 2005.

s/ Edward F. Shea  
EDWARD F. SHEA  
UNITED STATES DISTRICT JUDGE